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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,573	12/07/2000	Julie Rae Kowald	00169.001918.	9630
5514 7590 07/11/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
PERUNGAVOOR, SATHYANARAYA V				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
07/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/730,573

**Applicant(s)**

KOWALD, JULIE RAE

**Examiner**

SATH V. PERUNGAVOOR

**Art Unit**

2624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No./Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Applicant(s) Response to Official Action***

- [1] The response filed on December 1, 2006 has been entered and made of record.

### ***Response to Arguments/Amendments***

- [2] Presented arguments have been fully considered, but are rendered moot in view of the new ground(s) of rejection necessitated by amendment(s) initiated by the applicant(s).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- [3] Claims 1, 16, 37, 45, 59, 84 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potts et al. (6,593,956) in view of Sethi et al. ("A Statistical Approach to Scene Change Detection") and in further view of Murphy ("Digital Document Metadata in Organizations: Roles, Analytical Approaches, and Future Research Directions").

Regarding claim 1, Potts discloses the following claim limitations:

A method for automated classification of a digital image, said method comprising the steps of [abstract]: analyzing (*i.e.* 102) a digital image for the presence of a human face [col. 7, ll. 59-61], determining a size of the located face with respect to a size of the

image [col. 10, ll. 35-52], and classifying (*i.e. face or not*) the digital image based on the relative size of the face with respect to the image [col. 10, ll. 35-52].

Potts does not explicitly disclose the following claim limitations (emphasis added):

classifying the digital image according to one of at least three shot types based on the relative size of the face with respect to the image.

However, in the same field of endeavor Sethi discloses the deficient claim limitations, as follows:

classifying the digital image according to one of at least three shot types based on the distance between the camera and the subject [page 4, para. 3].

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Potts with Sethi to classify shot types based on the size of the face, the reasoning being the distance between the subject and camera (provided that focus is not varied) is usually conveyed as variations in the facial size or position.

Potts and Sethi do not explicitly disclose the following claim limitations:

storing the classification of the digital image as metadata associated with the digital image.

However, in the same field of endeavor Murphy discloses the deficient claim limitations, as follows:

storing the classification of the digital image as metadata associated with the digital image [page 267, col. 2, para. 4].

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Potts and Sethi with Murphy and include a metadata, the reasoning being to provide the ability to search [abstract].

Regarding claims 16, 37, 45, 59, 84 and 86 the arguments analogous to those presented above for claim 1. Potts discloses determining a position of the located face with respect to a frame of the image [*Col. 8, lines 61-64*].

[4] Remaining claims are rejected as per discussion in the previous office action (mailed on 07/15/2004), which is incorporated herein by reference.

### ***Conclusion***

[5] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Sath V. Perungavoor whose telephone number is (571) 272-7455. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Matthew C. Bella whose telephone number is (571) 272-7778, can be reached on Monday to Friday from 9:00am to 5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dated: July 14, 2008

*/Matthew C Bella/  
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